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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	Case No. CR 24-00329 CRB
)	
Plaintiff,)	MOTION FOR ENTRY OF ORDER PURSUANT
)	TO FEDERAL RULE OF EVIDENCE 502(d)
v.)	
)	DATE: October 1, 2025
)	TIME: 1:30 PM
RUTHIA HE, A/K/A RUJIA HE, and DAVID)	CTRM: Courtroom 6 – 17th Floor
BRODY,)	JUDGE: Hon. Charles R. Breyer
)	
Defendants.)	

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on October 1, 2025, at 1:30 p.m., or as soon thereafter as the matter may be heard in the courtroom of the Honorable Charles R. Breyer, Senior United States District Judge, located at 450 Golden Gate Avenue, San Francisco, California 94102, Courtroom 6, 17th Floor, the United States, by and through its undersigned counsel of record, *i.e.*, the designated filter team (“Filter Team”) will, and hereby does, move the Court entry of an order pursuant to Federal Rule of Evidence 502(d). In support of this Motion, the Filter Team states as follows:

MOTION FOR ORDER PURSUANT TO FEDERAL RULE OF EVIDENCE 502(D)
CR 24-00329 CRB

1 1. On July 22, 2024, the Court entered a Stipulated Protective Order [ECF No. 38].

2 2. On November 6, 2024, the Court entered another Stipulated Protective Order [ECF No.
3 144].

4 3. The Government has obtained material discoverable in this case through various grand jury
5 subpoenas issued to third parties and other means, including certain Potentially Protected Material¹ over
6 which third parties Done Global Inc. and/or Done Health P.C. (together, “Done” or “Third Party Privilege
7 Claimant”) may hold a privilege.

8 4. The relevant Potentially Protected Material (the “Done PPM”) consists of the following:

9 a. Approximately 374 PPM items identified on a phone associated with Nikita
10 Mercado;

11 b. Approximately 205 PPM WeChat audio items identified on an iPhone 14 associated
12 with Defendant He;

13 c. Approximately 9,722 PPM items identified on an iPhone 12 associated with
14 Defendant He;

15 d. Approximately 6,893 PPM items identified on a phone associated with Haley Zhu;
16 and

17 e. Any future identified PPM for which Done may be a privilege holder.

18 5. To avoid protracted litigation over the Done’s privilege claims in this matter an expedite
19 discovery productions to Defendants He and Brody, the United States Filter Team and Done agree to the
20 following:

21 a. Done expressly authorizes the United States Filter Team to release the Done PPM to
22 Defendants He and Brody.²

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24
25 ¹ “Potentially Protected Material” is discovery material that is potentially protected from disclosure
26 by the attorney-client privilege, work-product doctrine, or any other legally recognized privilege or
27 protection. This includes, but is not limited to, material over which a potential privilege holder has asserted
a specific claim of attorney-client privilege, work-product doctrine, or any other legally recognized
privilege or protection, but over which a Court has not yet ruled.

28 ² The items listed at 3.b and 3.c have already been produced to Defendant He. They have been
withheld from Defendant Brody.

- b. The United States Filter Team will not release to the Government Prosecution Team or any other party the Done PPM, except as authorized by the Court or expressly permitted by Done.
- c. All materials produced by the Filter Team shall be designated with a word mark “Produced Pursuant to FRE 502(d) Order.” Before using any of the Done PPM addressed by this motion: (1) at trial; (2) in public pre-trial proceedings; or (3) in a manner that may lead otherwise to public disclosure, a party shall give three (3) days’ notice prior to any such intended use to: (1) counsel for Done; (2) their co-defendant; and (2) the Prosecution Team. If Done does not consent to a party’s use of the Done PPM, that party may file a motion with the Court seeking authorization to use the material.
- d. Pursuant to Federal Rule of Evidence 502(d), the attorney-client privilege and other privileges or protections are not waived by disclosure connected with the litigation pending before the Court, nor constitute waiver in this proceeding or any other federal or state proceeding. Nothing in this Order precludes Done from asserting privilege claims over the disclosed materials in this proceeding or in any future proceedings in federal or state court.
- e. The Government reserves its rights to contest Done’s privilege assertions over the Done PPM at any time. However, the United States Filter Team’s production of Done PPM to the Defendants will not be construed as a waiver as to the Government or any other party, and the Government agrees that it will not claim the United States Filter Team’s production of Done PPM to Defendants operated as a waiver.
- f. In the event Done seeks to withhold or limit Defendants’ use of the Done PPM at a future point on the basis of the attorney-client privilege, the attorney work product protection, or any other privilege or protection, Defendants reserve their rights to contest those assertions at that time.

6. The Done PPM shall be subject to the Stipulated Protective Orders [ECF Nos. 38 and 149].

7. Undersigned counsel conferred via email with counsel for Done, and they consent to entry of the Proposed Order.

1 8. Undersigned counsel sent the Proposed Order to counsel for Defendants He and Brody at 7:26
2 AM Pacific Time on Monday, September 29, asking them to provide their position by 7:00 PM
3 Pacific Time that evening. But as of 6:30 AM Pacific Time on Tuesday, September 30, they
4 have not responded.

5 Accordingly, the United States Filter Team respectfully requests that this Motion be granted and
6 that the Court issue an order pursuant to Federal Rule of Evidence 502(d) for the relief requested herein.

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8
9 DATED: September 30, 2025

Respectfully submitted,

10 CRAIG H. MISSAKIAN
11 Attorney for the United States

12 LORINDA I. LARYEA
13 Acting Chief, Fraud Section
14 U.S. Department of Justice

15 /s/
16 EVAN SCHLOM
17 Trial Attorney
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